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Whanganui District Council District Plan Review Phase Six

Section 32AA Report – Proposed Plan Change 45 (Natural Environment Provisions)

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Dated:

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1. INTRODUCTION

1.1 PLAN REVIEW PROCESS

Section 79 of the Resource Management Act 1991 (the Act) requires Council to commence a review of its plans at least every 10 years. Recent amendments to the Act clarify that whole plans need not be reviewed. A Council may choose to review plans in part.

The existing provisions have been developed at different times and under different scenarios. There are some provisions that have been in the Plan since it was first developed but others have been operative for a shorter period of time. Others have been included in recent Plan changes. The intention of the review is not to meet a specific deadline under section 79 but to ensure the provisions in the plan are efficient and effective in managing the resources in the district and ensuring that Council's obligations under the Act are met.

The Act does not detail how a Council must review its plans. However consideration of the efficiency and effectiveness of existing provisions is considered the first step. Section 32AA of the Act requires Council to carry out a further evaluation of options before hearing a proposed Plan change. These matters are discussed throughout this report. The efficiency and effectiveness of the provisions in achieving the stated objectives is analysed in this report, as are the various options that were considered.

1.2 STATUTORY AND LEGISLATIVE FRAMEWORK FOR THE REVIEW

1.2.1 Resource Management Act 1991

Section 74 of the Act requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the Act:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
 - b. *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of-*
...
(iii) the maintenance of indigenous biological diversity

- ...
- f. *any other functions specified in this Act.*
- ...

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined:

5(2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- a. Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the Act.

Section 7:

Matters of national importance:

- a. the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- b. ...*
- c. the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- d. the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- e. the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*

The preservation of the coastal environment, the margins of waterways and public access is provided for in the proposed riparian margin changes. The protection of indigenous vegetation is handled under the One Plan and the proposed changes will emphasise this in the definition of ‘Forestry’. The relationship of Maori and their ancestral lands and water is also provided for in the riparian margin policies.

1.2.2 National Policy Statements & Coast Policy Statement

The Act requires that District Plans give effect to any relevant National Policy Statements (NPS). A NPS is a document prepared under the Act to help councils decide how national issues should be balanced with local costs. The national policy statements relevant to this plan change include:

- The New Zealand Coastal Policy Statement (2010)
- The National Policy Statement for Renewable Electricity Generation (2001)
- The National Policy Statement on Electricity Transmission (2008)

New Zealand Coastal Policy Statement

The New Zealand Coastal Policy Statement (NZCPS) has been considered and given effect to in relation to the coastline being identified as a riparian margin. The NZCPS's purpose is to state policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand. This was considered during the reviews of the Reserves and Open Spaces plan change (PC28) and the Rural Zones Plan change (PC36), which are zones within the coastline. The proposed identification of the coast as a riparian margin will be considered against the NZCPS.

Relevant sections include:

New Zealand Coastal Policy Statement 2010		Proposed Plan Change 45
Objectives	Policy	Evaluation
<p>Objective 3 To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:</p> <ul style="list-style-type: none"> •recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources; •promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act; •incorporating mātauranga Māori into sustainable management practices; and •recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua. 	<p>Policy 2: The Treaty of Waitangi, tangata whenua and Māori</p>	<p>The riparian margin provisions recognise the cultural values of the west coast by providing for development within 20 metres of the coast subject to cultural and amenity values being preserved.</p>
<p>Objective 4 To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:</p> <ul style="list-style-type: none"> •recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy; •maintaining and enhancing public walking 	<p>Policy 4: Integration</p> <p>Policy 18: Public open space</p> <p>Policy 19: Walking access</p>	<p>The riparian margin provisions recognise the amenity values of the west coast by providing for development within 20 metres of the coast subject to cultural and amenity values being</p>

<p>access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and</p> <ul style="list-style-type: none"> •recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland. 	<p>Policy 20: Vehicle access</p>	<p>preserved. Access is a recognised part of the amenity values in this area.</p>
<p>Objective 6</p> <p>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:</p> <ul style="list-style-type: none"> •the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits; •some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities; •functionally some uses and developments can only be located on the coast or in the coastal marine area; •the coastal environment contains renewable energy resources of significant value; •the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities; •the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land; •the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and •historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development. 	<p>Policy 6: Activities in the coastal environment</p> <p>Policy 9: Ports</p> <p>Policy 17: Historic heritage identification and protection</p> <p>Policy 23: Discharge of contaminants</p>	<p>The riparian margin provisions provide for development within 20 metres of the coast by making the activity status restricted discretionary which will protect the values of the coast while allowing activities to occur that enhance the area.</p>

National Policy Statement on Renewable Electricity Generation

The National Policy Statement for Renewable Electricity Generation (NPSREG) is part of the New Zealand Energy Strategy. This purpose is to strengthen the policy framework relating to renewable energy.

This Plan Change gives effect to the NPSREG by providing for tidal and ocean energy production within the riparian margin as a network utility with a functional requirement to be in the area.

National Policy Statement on Electricity Transmission

The National Policy Statement on Electricity Transmission (NPSET) sets out objectives and policies to standardise through the country the approach to managing the localised effects caused by the national grid. This recognises that it is a matter of national importance the need to operate, maintain, develop and upgrade the electricity transmission network.

This Plan change gives effect to the NPSET by allowing network utilities within the riparian margin and Overlay as a permitted activity due to their importance to the community.

1.2.3 Regional Policy Statement and Regional Plan (the One Plan)

In addition, the Act requires District Plan provisions give effect to the Regional Policy Statement (section 75(3)). The Regional Policy Statement (RPS) is the main vehicle for interpreting and applying the sustainable management requirements of the Act in a local context, and in this regard, guides the development of lower tier plans, including the District Plan.

The Manawatu-Wanganui Regional Council (Horizons) combined the Regional Policy Statement and six Regional Plans into one document called the One Plan. The One Plan became operative on 19 December 2014.

The One Plan is relevant to Plan Change 45 as it includes requirements relating to the implementation of the National Policy Statements as well as the requiring the Council to be consistent with the document.

An assessment of how the provisions in Plan Change 45 compare with the objectives and policies of the One Plan are considered in Table 1 below.

One Plan – Indigenous Forestry (called Production Forestry in the One Plan)		Proposed Plan Change 45
Objectives	Policy	Evaluation
Objective 12-2: Regulation of activities affecting indigenous biological diversity	Policy 12-5A: Regional rules for activities affecting indigenous biological diversity.	The proposed removal of the Indigenous Forestry rules will have no effect on the implementation of the One Plan. There are no identified effects for the Council to consider, as the regional council already covers them.

One Plan – Riparian Margins		Proposed Plan Change 45
Objectives	Policy	Evaluation
Objective 16-1: Regulation of structures and activities in artificial watercourses and in the beds of rivers and lakes and damming.	Policy 16-1: Consent decision-making for activities in, on, under or over the beds of rivers and lakes	<p>The One Plan takes care of ecological effects and water quality of development within the riparian margin. Therefore the proposed removal of provisions relating to ecology from the District Plan is reasonable as any ecology effects will be managed under the One Plan.</p> <p>The One Plan does not address the local amenity, cultural and spiritual values of land adjoining waterways. District councils are best placed to assess these localised effects.</p> <p>PC45 removes the existing blanket rule affecting all waterways. Instead only those waterways of local amenity or cultural value are required to be considered. These are listed in the Plan to provide clarity and certainty.</p> <p>The Plan change complies with the Objective and Policy as it does not interfere with Regional Council commitments, yet provides for local input on the waterways considered important to the community.</p>

There are no other relevant sections of the One Plan to consider as part of this Plan change.

1.2.4 Other Plans & Strategies

Another matter to which Council must have particular regard is other management plans and strategies. Those which are relevant to Chapter 10 matters are discussed below. They have informed the preparation of this section 32 analysis.

Iwi Settlement Process

Schedule 11 of the Act requires Councils to consider any Treaty Settlements within their District. Relevant settlements include:

- Ngati Apa Claims Settlement Act 2010
- Whanganui River Deed of Settlement

Both these settlements are within riparian margins. As development in this area must take into account the cultural values of these areas, reference to these documents and the standards within will be recognised.

National Cycleway Project/ New Zealand Cycle Trail

Mid 2009 the government established the national cycleway project. The Mountains to Sea Cycleway follows the Whanganui River to the sea. The River Margin Landscape Conservation Overlay has been extended to cover

this route within urban limits. This will protect the scenic route undertaken by cyclists and tourists and encourage adjoining businesses to interact with this recreational frontage and the River.

Forestry Amendment Act 1993

The Ministry of Primary Industries issues permits and manages the long term sustainability of indigenous forestry under the Forestry Act. The operative rules for indigenous forestry did not add any benefit to the environment or the process beyond the work that the Ministry or Horizons do. The Plan change proposes removal of the indigenous forestry provisions for this reason.

Leading Edge Strategy 2015

Whanganui District Council adopted the Leading Edge Strategy at the end of 2015 as an overarching document to guide the work undertaken by Council. Plan change 45 meets the new direction of Council by recognising the cultural values of the riparian margins, improving the walkways/cycleways along the Whanganui River and providing for development.

Castlecliff Reserve Management Plan (2005)

The proposed riparian margin and Overlay for the West Coast has the same values as the Reserve Management Plan for Castlecliff. The amenity and cultural values are important to both documents.

Parks and Open Spaces Strategy (2007)

Under this strategy the Castlecliff Coastal Reserve is considered a premier park. This means that it is iconic, tourist focused and of economic benefit. Many of the other parks adjoin waterways identified as significant by the proposed Plan Change in terms of riparian margins and the Overlay. The goals and proposed outcomes of the Strategy all focus towards recreation and preservation of the landscape. This is in line with the proposed Plan change.

Healthy Streams Whanganui

The Healthy Streams Whanganui is a community project lead by the Council. The aim of the project is to clean up the waterways in the District. The proposed Plan change will work with this project as it promotes high amenity near waterways that have significant value to the community.

2. PART 1 – PROPOSED PLAN CHANGE

2.1 BACKGROUND RESEARCH

Since the operative District Plan was drafted in the 1990s, there have been significant changes to how the natural environment of Whanganui is managed. Indigenous forestry is now managed by central and regional government. The ecology values of riparian margins are managed by Horizons Regional Council.

This is reflected in the documents that shape these rules. Development of new national policy statements, the Regional Plan, a new Council direction

and greater Iwi representation since the first District Plan was developed has shaped the direction of this proposed Plan change.

The requirement to manage effects on the natural environment is set out in the Resource Management Act 1991. There is a need within the District to update the District Plan requirements as shown by the reasons for consents issued over the past 5 years and the lack of complaints received over that same timeframe:

Table 1: Consents granted and complaints received for topics within Chapter 10 between 2008-2013

District Plan Provision	Number of Consents	Number of Enforcement Issues	Comments
Indigenous Forestry	0	0	No consents or complaints handled.
Riparian Margins	9	2	Most of the applicants are to do infrastructure work within 20 metres of the waterway. The enforcement issues come from individuals doing illegal work without any consent.
River Margin Landscape Conservation Overlay	19	1	The redevelopment of the riverfront area has seen an increase in development in the River Margin area. The majority of these developments have enhanced river access for the public.

Whanganui District Council processes approximately 110 resource consents per year. This means that the consents for these topics equate to about 5% of consents per year. This is a reasonable number when the majority of these consents were also needed for other breaches of the Plan at the same time. The success of these sections is backed up by the lack of complaints received for these issues. Council typically receives 28 complaints per year relating to the Act (excluding noise). Of those, only 2% relate to the issues above.

2.2 CONSULTATION AND OUTCOMES

In 2014 the Whanganui District Council began consultation with the members of the public to discuss potential issues with the current provisions. Consultation undertaken in 2012 is also included as it relates to the same landscape.

Date	Location	Comments
02/09/2014	Have your say page, Council Website	A background document and survey on the current District Wide provisions (including Riparian margins and Indigenous Forestry) was posted online.
6-7/09/2014	Home and Living Show, Springvale Park	Introduced the review of the District Wide rules at Council's stall, and promoted the survey. Approximately 9000 people came to the show.
19/09/2014	Letter to stakeholders	Letters were sent to approximately 55 stakeholders (identified based on commentary provided during previous plan changes) advising them of the review and recommending participation in the survey. This included PowerCo, Transpower, Vector, NZTA, Chorus, KiwiRail, Mainstreet, Iwi groups, Federated Farmers, and Horizons.
22/10/2014	Community Link Page, Online & Rivercity Press	Promoted the survey and background information to the general public. 35 responses to the survey were received.
27/03/2015	Shaping Whanganui – Phase 6 Council Website	Draft versions of the proposed provisions and maps went online for comment. Response due 14 April 2015.
28/03/2015	Rivertraders Market	Introduced the proposed District Wide rules at Council's stall and requested feedback. Promoted website to see the draft text and maps.
1/04/2015	Email/Letter to stakeholders and owners	Letters sent to identified stakeholders and owners with link to draft provisions and 14 April 2015 deadline to respond.

Feedback from the community via the survey, letters from stakeholders and the meetings mentioned a range of issues which are addressed as part of this plan change. Specifically, the natural environment issues raised are summarised as:

Indigenous Forestry

- Current rules were easy to understand
- Support to remove rules from the Plan.

Riparian Margins

- Specific listing of waterways that the rules apply to will make implementation easier
- Neutral on the size of Riparian Margins (20m)

River Margin Landscape Conservation Zone

- Expansion of this zone is encouraged.

2.3 DESCRIPTION OF THE PROPOSED PLAN CHANGE

- 2.3.1 Proposed Plan change 45 (Natural Environment) reviews the provisions of Chapter 10 except Protected Trees which were reviewed under Plan change 31.

Provisions relating to indigenous forestry are removed because the environmental effects of discharge to water and sustainability are already handled at the regional and national government level.

The proposed provisions for riparian margins are reduced from the operative rules to only those waterways that the community deem significant in terms of amenity and/or spiritual/cultural values. This is due to the Plan not needing to cover ecological issues which are handled by Horizons Regional Council. The simplification of the policies relating to riparian margins will result in the esplanade section in Chapter 13 being slightly re-worded to incorporate the purpose of taking esplanade reserves, which was previously covered by reference to the riparian margin policy. There will be no change in implementation of the esplanade provisions as a result of this change.

The Urban River Landscape overlay (formally the River Margin Landscape Conservation overlay) is proposed to be extended and the existing objectives and policies clarified. The overlay exists to enhance the link between the town and the river, and to visually enhance the views of the urban area across the water. It is proposed to extend the area to include land adjoining the national cycle route within the urban boundary. This will require activities adjoining the cycle route to consider the visual effects (and possible physical access if the activity is open to the public) of their activity on the high amenity areas on and adjoining the Whanganui River. The limits of the zone are the extent of the cycleway (which is where the majority of public access and amenity value is enjoyed) and the urban boundary (where the majority of people enjoy the river landscape).

- 2.3.2 Council is completing a phased review of the District Plan. Section 70 of the Resource Management Act 1991 requires that where provisions have been reviewed and no changes are proposed, the existing provisions must still be publicly notified as if it were a change.

- 2.3.3 The objectives and policies for Protected Trees were reviewed as part of Plan Change 31. A copy of these provisions, are included in the marked up text for completeness of the chapter and are not subject to the Plan change process. These areas are shaded grey. The provisions that relate specifically to indigenous forestry, riparian margins and the river margin landscape conservation overlay are open to submission as part of proposed Plan Change 45.

3. PART 2 – SECTION 32 EVALUATION

3.1 REQUIREMENT TO MAKE AN EVALUATION

The Resource Management Act 1991 (the Act) requires that when a Council undertakes a plan change it must produce a report evaluating the proposed provisions. This is known as a Section 32 Report. This report contains an evaluation of the proposed Plan change, prepared in accordance with section 32 of the Resource Management Act (as amended 2013).

The evaluation examines:

- *the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act (to promote the sustainable management of natural and physical resources), and*
- *whether, the provisions are the most appropriate way to achieve the objectives by*
 - *identifying other reasonably practicable options for achieving the objectives; and*
 - *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - *summarising the reasons for deciding on the provisions; and*
- *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of the proposal.*

For the purposes of this examination, the evaluation must:

- *Identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions including the opportunities for –*
 - *economic growth that are anticipated to be provided or reduced; and*
 - *employment that are anticipated to be provided or reduced; and*
- *if practicable, quantify the benefits and costs referred to above; and*
- *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

3.2 CONSIDERATION OF METHODS

- 3.2.1 While the use of non-regulatory methods such as management plans, by-laws, education and information provisions have been taken into account, as a primary option these were not considered to be an appropriate standalone option for achieving the objectives of the Plan or the Act. It is therefore deemed most appropriate to maintain non-regulatory methods as supplementary to regulatory approaches. In investigating the best regulatory method of achieving the objectives of the proposed Plan change, three options were identified and considered.

3.2.2 The options considered are as follows:

Options	Explanation
Option 1 Maintain the Status Quo – Do nothing.	Leave Plan as it is – no substantial changes made apart from formatting to be consistent with the rest of the plan.
Option 2 Update to reference national direction documents and Horizons One Plan.	Update the provisions to give effect to documents produced since the Plan was last reviewed.
Option 3 Review all relevant sections of Chapter 10 taking into account community values as well as national and regional documents.	Review all parts of Chapter 10 that have not been reviewed, together with community consultation in order to create a provisions that reflects local values as well as meets regional and national standards.

Each of these identified options is discussed in detail below.

One of the aims of Section 32 analysis is to identify a preferred approach as being more efficient and effective approach than other options in achieving the key objectives listed above which reflect the objectives of the Whanganui District Plan and the Act. The benefits and costs of each option are illustrated below.

	Benefits	Costs
Option 1 – Status Quo/ Do Nothing	<p>Least financial cost in processing the Plan change due to less research.</p> <p>Retain familiarity with the existing objectives, policies and rules.</p>	<p>Cost of Plan change process.</p> <p>Increased costs on developers/property owners with the double up of compliance with the One Plan as well as the District Plan for indigenous forestry and riparian margins.</p> <p>Increased risk of legal liability due to insufficient objectives and policies.</p> <p>Council not fulfilling obligations under the Act.</p>
Option 2 – Update to reference national direction documents and Horizons One Plan.	<p>Minimal changes to the rules and processing.</p> <p>Reduced consenting costs for riparian margins and indigenous forestry activities.</p>	<p>Cost of Plan change process.</p> <p>Community consultation and input not recognised.</p> <p>Shortcomings in current rules and policies not fully addressed.</p>
Option 3 - Review all relevant sections of Chapter 10 taking into account community values as well as	<p>Statutory obligations of Council fulfilled.</p> <p>More certainty for developers and owners on the type of work permitted and how</p>	<p>Cost of Plan change process.</p> <p>Loss of private land use rights for landowners of new overlay areas.</p> <p>Potential to impose on private property rights by increasing regulatory</p>

national and regional documents.	applications will be protection in some areas. assessed.	
	Provides for community unsympathetically near riparian values on significant margins. waterways.	Risk of network utilities being located
	Improved amenity and access at urban river edge and entrance to urban area.	
	Plan effectiveness and efficiency addressed.	

3.2.3 Analysis of Options

Option 1: Maintain the Status Quo (Do nothing)

Maintaining the status quo is an option that needs to be considered. This would simply involve the retention of the existing District Plan provisions.

Maintaining the status quo would result in a situation where unnecessary consents would be required for riparian margins and indigenous forestry activities, even though a consent could be required from Horizons.

As a result of these findings and taking into account the risk of acting or not acting it is considered that maintaining the status quo would not provide sufficient protection for the District's riparian margins or the river margin landscape conservation area, nor would it fulfil Council's statutory obligations under the Act. Therefore, it is not considered to be the best method available.

Option 2: Update to reference national direction documents and Horizons One Plan.

Since the development of the last District Plan, several national policy statements have been developed, the coastal policy statement has been reviewed and the regional documents have been combined into the One Plan. The District Plan is required to give effect to these documents. The current Plan provisions conflict with some of these provisions and are silent on others.

If Council was to proceed with the option of updating the Plan to reference these documents without public consultation, then the purpose of a District Plan would not be met. A District Plan is prepared at a local level to deal with the issues of that community. By not involving the community in the review, the effectiveness of the Plan is compromised due to less information and less buy-in from developers.

This option is not therefore considered to be an efficient and effective approach for addressing current inaccuracies and meeting the statutory obligations of the Act.

Option 3: Review all relevant sections of Chapter 10 taking into account community values as well as national and regional documents.

This method would build on option 2 by addressing the shortcomings of not including the local trends and public input.

As stated in section 2.1 of this report, the proposed changes to rules seek to update the Plan to provide for the matters addressed in the national policy statements, the coastal policy statement and the One Plan. It also amends the provisions to take into account the following changes:

Indigenous Forestry

- Provisions not used regularly by the Public.
- Adverse effects covered by Ministry for Primary Industries and Horizons Regional Council.

Riparian Margins

- Ecological effects managed by Horizons. Council having ecological provisions adds nothing but additional costs to development.
- Definition of a waterway hard to enforce and unfair on rural activities. Restricting waterways to only bodies identified by the public means less confusion and more robust provisions.
- Effects limited to the social wellbeings: amenity and cultural. This allows Council to consider development where the activity will not interfere with the community's ability to enjoy and use waterways and their riparian margins.
- Amendments to the objectives and policies to improve clarity and robustness.

River Margin Landscape Conservation overlay

- Change name to Urban River Landscape overlay
- Effects limited to the visual amenity and the ability to access the urban area and the Whanganui River. These provisions are considered to have been effective in achieving this through resource consent and enforcement action.
- Amendments to the objectives and policies to improve clarity and robustness.
- The area of the overlay expanded to encourage more activities to link the city and the river. The expansion follows the New Zealand cycle trail within the urban boundary.

The community feedback and review of the existing provisions has resulted in the proposed roll over of the river margin provisions and the refinement of the riparian margin provisions to only refer to those waterways the community deem significant.

Therefore, option 3; Including community viewpoints as well as national and regional planning documents is recommended because it is considered to be the most efficient and effective way to protect the environmental values identified, with the best outcomes in terms of the environmental, social/cultural and economic costs and benefits.

3.2.4 Appropriateness of the Plan Change

Whether or not the Plan change is necessary or appropriate is directly linked to Sections 5, 6 and 7 of the Resource Management Act 1991. This Plan change is considered necessary to achieve the purpose and principals of the Act because it meets the following:

Matters of national importance:

- a. the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- b. the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- c. the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- d. the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- e. the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*

The preservation of the coastal environment, the margins of waterways and public access is provided for in the proposed riparian margin changes. The protection of indigenous vegetation is handled under the One Plan and the proposed changes will emphasise this. The relationship of Maori and their ancestral lands and water is also provided for in the riparian margin policies.

3.2.5 Conclusion & Recommended Option

Various council staff and the community have been involved in undertaking a significant amount of work and consultation to ensure that Council has sufficient information to prepare a Plan change. The Council has not relied on any uncertain or insufficient information, but has undertaken research and site visits to ensure the subject is adequately understood and recommendations are wisely founded.

Several submissions have pointed out the numbering errors within Chapter 10. The chapter has been re-numbered, but in order to prevent confusion while assessing the submissions, the notified numbers have remained and the new numbers are in [brackets].

It is considered that the reviewed objectives, policies and rules is the most efficient and effect means available to Council to preserve and enhance the key natural environment features of the Whanganui District.

3.3 PROPOSED ISSUES

Although not required by the Act, the identification of resource management issues is generally provided for in most District Plans. It provides a base to develop suitable objectives and policies that are relevant to the local circumstances or context.

<p>Riparian Margins</p> <p>[10.1.1]</p> <p>10.1.5 The visual and spiritual values of our key waterbodies are not always well defined or understood for the community, making it difficult to protect these waterbodies and riparian margins from inappropriate use and development.</p> <p>Urban River Landscape Overlay</p> <p>[10.1.2]</p> <p>10.1.6 High quality amenity values of the river margins which potentially provide a positive visual gateway to the urban area as well as public access to the Whanganui River, are threatened by the existence of activities which reduce the visual amenity on highly visible land in the vicinity.</p>	
Comment	<p>The proposed issues identify the need to manage effects produced by development near significant waterways and the land between the city and the River.</p> <p>Text related indigenous forestry has been deleted as Horizons Regional Council will be dealing with the adverse effects as a result of the activity. Text from the other parts of this Plan change has been deleted in order to provide simple communication what the issues are.</p>
Summary of benefits	Identifying the issues provides clarity to Plan users about what the Plan is addressing. Development can occur outside the specifically identified areas and at a level beneficial to the community within these areas.
Summary of costs	No direct cost implications although the community will be in a position to make better informed assessments through the clarification of the issues.
Effectiveness	The new issues are effective as improved understanding through focused issues will support better informed decision making and save time and cost at all levels.
Efficiency	The new issues are efficient as improved understanding through focused issues will support better informed decision making which recognises inherent levels of affecting people.
Appropriateness	<p>The proposed issues identify that certain waterways are important to the community and development needs to take the community values in these areas into account.</p> <p>This is in line with the Coastal Policy Statement, Horizons One Plan and the management plans for the areas.</p>

Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	It is a requirement of the Act for the Council to demonstrate that it is complying with the Coastal Policy Statement and Regional Planning documents. The clarification of the riparian margin issues will encourage the type of development that will enhance the environment.
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3.4 PROPOSED OBJECTIVES

Riparian Margins [10.2.1] 10.2.5 Preserve and protect the natural character of key waterbodies which provide significant spiritual, cultural, amenity or access value to the community. Urban River Landscape Overlay [10.2.2] 10.2.6 Enhancement of the visual quality of the urban area gateway environment.	
Comment	The proposed objectives identify that particular riparian margins are important and that development in these areas should consider the surrounding environment and community value.
Summary of benefits	Improved awareness of what is the preferred outcome in riparian margins and the river margin issues.
Summary of costs	No increased cost implications although the community will be in a position to make better informed decisions on what riparian margin restrictions are seeking to achieve.
Effectiveness	The new objectives are effective as improved understanding will support better informed decision making. They are also in line with current regional government standards.
Efficiency	The new objectives are efficient as improved understanding will support better informed decision making, meaning less resource consents as a result of conflicting regional and local council documents.
Appropriateness	The proposed objectives are responsive to the understanding that waterways that are important to the community and a proactive approach must be taken. The objectives are appropriate as they clearly state that the effects are to be minimised, not managed which is reasonable for areas that the community deem as important.
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the	It is a requirement of the Act for the Council to demonstrate that it is complying with the National Coastal Policy Statement and any Regional plans. The clarification of the waterways that the community deem important and what is sought to achieve is in line with these documents.

policies, rules, or other methods	Clarification of the proposed objectives will provide for better decisions and the ability to manage effects better.
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3.5 PROPOSED POLICIES

Riparian Margins

[10.3.1]

10.3.18 The following waterbodies are strategically important within the District and are collectively referred to as the 'key waterbodies' in the Plan:

- a. Whanganui River and its tributaries
- b. Virginia Lake (Rotokawau)
- c. Westmere Lake (Roto Mokoia)
- d. Matarawa Stream
- e. Lake Wiritoa
- f. Whangaehu River
- g. Purua Stream
- h. West Coast/Tasman Sea
- i. The waterbodies within Gordon Park Scenic Reserve
- j. Lake Purua
- k. Lake Kaitoke
- l. Riri a Te Hori Wetland
- m. Mowhanau Stream (on public land only)
- n. Kai Iwi Stream (on public land only)
- o. Twin Lakes (Otoko)
- p. Lake Rotokauwau
- q. The waterbodies within Whitiua Scientific Reserve

[10.3.2]

10.3.2 When considering applications to subdivide, use or develop land on or adjacent to key waterbodies, adopt a precautionary approach and recognise actual and potential long term effects, on the quality of the environment.

[10.3.3]

10.3.8 To preserve the natural character of the Districts waterbodies (coast, wetlands, lakes and rivers) and their margins, and protect them from inappropriate subdivision, use, or development by providing for the natural character values and requiring avoidance or mitigation of adverse effects.

[10.3.4]

10.3.9 To maintain, or enhance where appropriate, public access to and along the key waterbodies indicated in Policy 10.3.18[10.3.1].

[10.3.5]

10.3.7 To have particular regard for the maintenance and enhancement of conservation values, public access, amenity values and spiritual and

cultural values, on key waterbodies.

[10.3.6]

- 10.3.19** To ensure activities adjoining key waterbodies recognise and provide for:
- The importance of the waterbody and riparian margin as a traditional food source.
 - The presence of rare or threatened species.
 - Existing public access and uses of the riparian margin.
 - Social and cultural values associated to the area.

- 10.3.7** Recognise that some network utilities have a function and locational need to be located in the Districts Natural Areas, including riparian margins and river environments and that their continued operation and maintenance is a functional requirement.

Urban River Landscape Overlay

[10.3.8]

- 10.3.10** Recognise the Urban River Landscape Overlay area as a Landscape Conservation Area and promote quality landscape and urban design to maintain and enhance urban amenity, cultural landscape and recreational values of this environment.

[10.3.9]

- 10.3.11** Promote and enhance visual and physical links and access to and along the urban river landscape overlay by:
- preserving key view corridors and viewpoints to and from the Urban River area; and
 - providing for development that enhances the visual and physical access between the urban area and the river that maintains the landscape values.

Where an activity would have been a permitted activity under the underlying zone but requires resource consent under the above provisions, the Council will consider waiving resource consent fees.

- 10.3.10** Recognise that some network utilities have a function and locational need to be located in the Districts Natural Areas, including riparian margins and river environments and that their continued operation and maintenance is a functional requirement.

Comment

These policies recognise that particular landscapes (land adjoining waterways and the river margins) of the District have values that must be balanced when assessing development.

Policies relating to the ecological and health effects on

	<p>riparian margins and indigenous forestry were deleted as this is handled by Horizons Regional Council and a double up in the District Plan is not necessary. The description of esplanade reserves within policy 10.3.8 [10.3.3] has been incorporated into Chapter 13.</p> <p>The other alterations to policies in this chapter were to simplify the statements.</p> <p>The waterways identified as key for the purposes of the riparian margin rules were identified based on their proximity to people, their cultural significance and the One Plan significant wetlands list. The list of waterways was also open for additions/deletions as part of the consultation for this Plan change.</p>
Benefits	<p>Social/Cultural These policies recognise the significance of the relationship the District's residents share with waterways and provides for public access and recognition of the spiritual and amenity values these waterways can hold with the riparian margin provisions. Public awareness of cultural values of the natural environment will be raised through development in these areas.</p> <p>Economic The new policies provide more certainty for developers about activities within the areas identified by the natural environment chapter. The waterways have been a popular source of tourism income since the town was established and that source of income will be protected under these provisions.</p> <p>Environmental The better defined policies will ensure proper processes are followed to consider any adverse effects. These policies recognise that the entrance to the city is important and that improved connection between the city and the Whanganui River should be encouraged through redevelopment of the area.</p>
Costs	<p>Economic These policies may restrict the development potential in certain areas due to the cost of consent and potential mitigation measures.</p> <p>Cultural These policies may potentially affect the cultural uses of land adjoining waterways.</p> <p>Environmental Waterways not identified by the policy may be at risk of unsympathetic development.</p>
Effectiveness	<p>These policies are effective as they create more precise guidance for decision makers. They provide an effective framework to achieve the objectives by providing</p>

	mechanisms to ensure the efficient use of waterways of value.
Efficiency	These policies are effective as they create more precise guidance for decision makers. They provide an efficient way to achieve the objectives as the benefits of providing for these waterways outweigh the costs.
Appropriateness	These policies are appropriate as they create more precise guidance for decision makers. They are in accordance with the relevant documents.
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	Council considers there is sufficient information regarding the subject matter of the above policies. The risks of not establishing a policy framework outlining where the significant waterways are and why they are significant will result in any development occurring with no consideration of the long term environmental, economic and cultural effects.

3.6 PROPOSED RULES

The following methods have been identified as being suitable for achieving the relevant objectives and policies outlined above.

3.6.1 Rules

A review of the existing rules applying within the Chapter 10 was completed excluding Protected Trees which have recently been reviewed. It is considered that the rules needed to be updated to not cover areas that Horizons already manage as well as enhance the provisions for the Urban River Landscape overlay. This is considered the most appropriate way to achieve the objectives and purpose of the Act.

The Indigenous Forestry and Riparian Margin rules are assessed together as they are currently combined in the Plan and the overlay is assessed separately for convenience.

[10.4]10.6 RULES – RIPARIAN MARGINS

Note: The Manawatu-Whanganui Regional Council should be consulted regarding any activity which results in disturbance to the beds of waterbodies and their riparian margins, to identify any Regional Council requirements.

[10.4.1]10.6.1 Permitted activities.

The following are permitted activities provided they comply with the Performance Standards of the underlying zone as well as any other relevant chapters

- Activities on or near waterbodies not listed in Policy 10.3.18[10.3.1] as a key waterbody.
- Activities within 20 metres of a key waterbody listed in Policy 10.3.18[10.3.1] and that involve:

- i. Replacement, maintenance, upgrade or removal of an existing network utility, or a fence, bridge, culvert, ford or flood protection structure.
- ii. Clearance of plant pests and restoration of indigenous biodiversity,
- iii. Maintenance of existing or installation of new cables and lines in, under or over roads, bridges or culverts.
- iv. Installation of a new fence, bridge, culvert, ford or flood protection structure.
- v. Conservation, river management or habitat restoration activities.

[10.4.2]10.6.3 Restricted Discretionary Activities.

The following are restricted discretionary activities

- a. Activities within 20 metres of a key waterbody (listed in Policy 10.3.8[10.3.1]) that are not provided for in Rule 10.6.1[10.4.1].

Council restricts its discretion to the following matters:

- i. effects on the spiritual/cultural values of the waterway;
- ii. effects on the landscape amenity;
- iii. Any enhancement of the public access or visual amenity of the area.
- iv. The necessity to undertake the activity at the riparian edge or within the riparian margin.

Note: Refer also to the esplanade reserve requirements in Chapter 13A, Subdivision Rules, Section 13.8 and to the financial contribution provisions in Chapter 20 of this Plan, in relation to activities requiring subdivision or landuse consent along waterbodies.

Comment	The operative rules combine the Indigenous Forestry and Riparian Margin sections together. The Indigenous Forestry performance standards are removed, meaning that it is considered the same as any other forestry activity. The removal is due to the activity being managed by regional and central government. The Riparian margin provisions have no performance standards. This is because the only permitted activities in the riparian margins are utilities which are controlled elsewhere in the Plan and pest control or re-planting which does not require performance standards. All other activities are controlled through a resource consent.
Benefits	<p>Environmental – The permitted status for the majority of waterways in the District ensures that consent will only be required where there will be a direct impact on waterways significant to the community. It also prevents a double up of responsibility with the Regional Council which will allow more energy to be directed to the amenity and spiritual effects.</p> <p>Economic – Enables a wide range of day-to-day activities to</p>

	<p>occur without the need for a consent. This reduces the cost for the operator and enabled these activities to be easily undertaken (Indigenous Forestry & Riparian Margins).</p> <p>Establishes a clear framework on what a waterway is (by listing them) and restricting Council's discretion to the objective outside Regional Council's control. This prevents a double assessment at the applicant's cost.</p>
Costs	<p>Economic – Administrative and consultation costs for Council associated with processing applications and assessing compliance.</p> <p>May limit the development of activities near significant waterways due to extra mitigation costs.</p> <p>Social & Cultural – There is the potential that indigenous forestry or network utilities may be harvested or be developed in locations that upset the community as they are exempt from needing consent. There is also the potential for increased development to occur near waterways that were not identified as being significant in the District Plan.</p>
Effectiveness	<p>This option will provide for a more effective management framework by clearly identifying which issues are handled by each council. This option is likely to achieve improved environmental outcomes and wider cultural and amenity benefits with improved management under the District Plan.</p>
Efficiency	<p>Specifying effects and matters to consider for resource consent applications is efficient and avoids unnecessary consent processes and ensures that resources are efficiently targeted to the activities with implications for sustainable management.</p>
Appropriateness	<p>While this proposal reduces the waterways requiring assessment for amenity and cultural effects to a specific list, it is considered more appropriate that the existing method of requiring consent for all waterways, no matter what value the community holds for the waterway.</p> <p>The removal of the indigenous forestry provisions is considered appropriate as the environmental effects are considered under the Forest Act and the regional council. It would be inappropriate for Council to consider the same effects under this Plan.</p>
Principal Alternative	<p>Council considers that there is sufficient information regarding the subject matter of the above rules that support the objectives and policies relating to riparian margins. The risks of not establishing methods for Indigenous Forestry are minor as it is handled under other agencies. Not acting would increase the likelihood of an inefficient consent process and therefore not achieve the objectives of the plan or the National Policy Statements.</p> <p>The principal alternative would be to maintain the status quo. However no parties have indicated that the existing regulation is sufficient.</p>

[10.5]10.7 URBAN RIVER LANDSCAPE OVERLAY

Where there is conflict between the rules of the underlying zone and the rules of this overlay, the more stringent activity status applies, no matter which chapter of the Plan it appears in.

[10.5.1]10.6.1 Permitted activities.

The following are permitted activities provided they comply with the Performance Standards of the underlying zone as well as any other relevant chapters:

- a. Replacement, maintenance, upgrade or removal of an existing network utility, or a fence, bridge, culvert, ford or flood protection structure.

Note: The Manawatu-Wanganui Regional Council should be consulted regarding any activity within 10 metres of the Whanganui River or within 8 metres of the landward toe of a flood protection structure including stopbanks, to confirm any Regional requirements.

[10.5.2]10.8.2 Restricted Discretionary Activities.

The following are restricted discretionary activities in the Urban River Landscape:

- a. Erection of new structures.
Council restricts its discretion to the following matters:
 - i. Effects on amenity values including views and access to and along the river margins.
 - ii. Effects on the landform, including physical characteristics of the riverbank and esplanade reserve.
 - iii. The effect of the form, mass, proportion and materials of any buildings on the overall visual amenities and on any specifically identified views to be protected.
 - iv. Landscaping proposals, including design and materials, and the effects of the landscaping on the visual amenity and on any specifically identified views shafts.
 - v. whether or not any structures individually or collectively forms a visual landmark and makes a positive contribution to the character of the area.

Comment

These are the updated provisions for the River Margin Landscape Conservation overlay, which is re-named Urban River Landscape overlay. The overlay reinforces what is expected and appropriate for the area beyond the underlying zone requirements.

The overlay was determined to be effective in creating a link between the city and river and improving amenity in the area. Therefore it is proposed to be extended to cover a wider area

	that the public have access to via the cycleway. Improved amenity and thoroughfare in these areas will enhance the economic, social and environmental values of the town through restrictions on how development occurs.
Benefits	<p>Environmental – Provides certainty as to which activities are acceptable in the overlay.</p> <p>Economic – Allows a wide range of activities which will provide for the economic well-being of the community without compromising the amenity of the area. Avoids unnecessary resource consents and minimises bureaucracy.</p> <p>Social & Cultural – The community will know what to expect in the areas therefore reducing reverse sensitivity and other social conflicts. There is a clear to consider cultural effects on the environment when processing applications.</p>
Costs	<p>Environmental Some of the activities currently permitted in the areas will be restricted.</p> <p>Economic Resource consents will be required which comes at a financial and time cost. The additional consent for the overlays will create additional costs to the applicant.</p> <p>Social & Cultural As the overlay defines the cultural effects more clearly than the existing provisions there is the potential for increased pressure on Iwi groups from developers.</p>
Effectiveness	<p>These provisions are effective as they enable specific areas of concern to be addressed, particularly where identified by policies in the Plan. Focuses consent processes which is time and cost effective.</p> <p>Consistent regulation of activities with the National Policy Statements is an effective way to manage effects nationally.</p>
Efficiency	<p>Specifying effects and matters to consider for resource consent applications is efficient and avoids unnecessary consent processes and ensures that resources are efficiently targeted to the activities with implications for sustainable management.</p> <p>Provisions are efficient as they provide an appropriate level of activity status to clearly articulate the expectation of the community.</p>
Appropriateness	The rules allow for development ensuring that environmental effects are avoided, remedied or mitigated. This is considered to be an appropriate approach and in line with the National planning documents, One Plan and management plans for the areas.
Principal Alternative	Council considers that there is sufficient information regarding the subject matter of the above rules that support the objectives and policies relating to the overlay. The risks of not establishing methods to ensure that the values of the overlay

	<p>are considered during activities far outweigh the risks of doing so. Not acting would increase the likelihood of unsympathetic development that damages the environment.</p> <p>Status quo which is more permissive does not achieve the key objectives specified above. A further alternative could be to be even more restrictive. This is not deemed necessary or efficient.</p>
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3.7 PROPOSED ACILLARY CHANGES

With the proposed changes to the rules, the Definitions (Chapter 2) and Assessment Criteria (Chapter 23) will need to be altered to be consistent. The following changes have been identified as being suitable for achieving the relevant objectives, policies and rules outlined above.

2 DEFINITIONS

Forestry: means activities associated with all planting of trees for carbon sequestration purposes or production forestry including associated activities of tracking, earthworks, land preparation, planting, pruning, thinning, clearing understorey (indigenous and exotic species), and harvesting but excludes shelterbelts, planting for soil conservation purposes, and planting to form property boundaries, and excludes milling and other processing activities of the wood product.

Note that forestry of native trees has additional requirements in the Horizons One Plan and the Forest Act 1993.

Riparian Margin: means the strip of land along the edge of a waterbody including streams, lakes and wetlands. The riparian margin starts at the mean high spring water level.

This definition only applies to waterbodies identified in Policy 10.3.8[10.3.1].

Vegetation clearance: means the destruction of vegetation by any means, including cutting, burning, clearing or spraying; and excludes clearance of agricultural or horticultural crops, pasture, forest thinnings or coppicing, or any plant defined as a plant pest; or clearance of tracks for the use of foot traffic only; or any clearance for the purposes of a recognised river control scheme or any clearance for the normal maintenance of roads, railway lines and public utility networks; and includes clear felling of forest; and line clearance by bulldozer or similar machine for fences or planting.

Comment	<p>These are the updated definitions based on what the rules are trying to provide for. As the objectives for this chapter have changed as well as the criteria for requiring a consent, the assessment criteria are no longer relevant. It is removed as the restricted discretionary rules provide criteria for assessment and the policies are expanded to provide greater guidance to decision makers.</p>
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Benefits	<p>Environmental & Economic – The Plan is clear and enables people to make decisions based on an established set of development definitions.</p> <p>Social & Cultural - continuation of a clear message in the Plan about how to achieve compliance.</p>
Costs	<p>Environmental & Economic – Existing costs are reduced as information will be clear and consistent.</p> <p>Social & Cultural – There will be less confusion as the definitions and assessment criteria are improved to include current working practices.</p>
Effectiveness	Better definitions will reduce confusion. Removing the relevant assessment criteria will result in a better quality of application as AEEs will be based on the policies instead.
Efficiency	Better definitions and removal of assessment criteria that is no longer relevant will ensure that resources are efficiently targeted to the activities with implications for sustainable management.
Appropriateness	This approach is mirrored in plans throughout the country as well as in the national coastal policy statement.
Principal Alternative	The main alternative to these definitions and assessment criteria deletion would be the status quo which leaves the public more confused as to their rights and a legal uncertainty which could prove costly to Council.